

USDC SDNY  
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DATE FILED: March 31, 2017

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Michael Smith-Baker

16A4081

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

THE CITY OF New York et, al.,

Detective - Antonio German #4066

Detective - Federico Frizary #4233

Both Officers From 1<sup>st</sup> Precinct  
New York City Police Department

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

AMENDED  
COMPLAINT

under the Civil Rights Act,  
42 U.S.C. § 1983

Jury Trial: ☒ Yes ☐ No  
(check one)

15 Civ. 7296 KPF

IN THEIR INDIVIDUAL  
AND FULL CAPACITY

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's Name Michael Smith-Baker  
ID# 16A4081  
Current Institution FISHKILL Correctional Facility  
Address 271 Matteawan Road P.O. Box 1249  
Beacon, NY 12508

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name THE CITY OF New York, et, AL Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

Defendant No. 2 Name Detective - Federico Irizarry Shield # 4233  
 Where Currently Employed New York City Police Department  
 Address First Precinct

Defendant No. 3 Name Detective - Antonio German Shield # 4066  
 Where Currently Employed New York City Police Department  
 Address First Precinct

Defendant No. 4 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
 Where Currently Employed \_\_\_\_\_  
 Address \_\_\_\_\_

Defendant No. 5 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
 Where Currently Employed \_\_\_\_\_  
 Address \_\_\_\_\_

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

NONE

B. Where in the institution did the events giving rise to your claim(s) occur?

N/A

C. What date and approximate time did the events giving rise to your claim(s) occur?

March 26<sup>th</sup>, 2015 10:00 pm 1<sup>st</sup> Precinct

D. Facts: Nature of Claim is For emotional AND physical injuries sustained by claimant "MICHAEL SMITH-BAKER" as well as civil rights violations under the 8<sup>th</sup> AND 14<sup>th</sup> Amendments of the United States Constitution. As well as the rights, privileges, AND immunities secured under 42 U.S.C. Section 1983. The Equal Protection clause AND the New York State Constitution.

What happened to you?

Who did what?

### "CAUSES OF ACTION"

Was anyone else involved?

THE ABOVE DAMAGES stem FROM the Negligent, careless, Reckless AND intentional misconduct of the city OF New York, its Agents, SERVANTS AND employees Acting under its 'Direction', 'Permission' AND control in the Process of Providing Services (Police) Police officers - ANTONIO Germano #4066 AND Police officer - Federico IrazARRY #4233 in the 1<sup>st</sup> Precinct, NY.

Who else saw what happened?

The claims occurred on March 26<sup>th</sup>, 2015 at the First Precinct, New York city when claimant lawfully entered the premises as requested for interview. While questioned THE Police officers named above AND others not named began to physically assault the claimant. After being assaulted claimant continuously asked for a lawyer.

III. Injuries: See Attached STATEMENT OF Facts Continued

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

SEE ATTACHED

#### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes \_\_\_ No ☒



If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

NONE

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☐ No ☒ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)? \_\_\_\_\_

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☐ No ☒

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☒

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

N/A

1. Which claim(s) in this complaint did you grieve?

N/A

2. What was the result, if any?

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: \_\_\_\_\_

N/A

2. If you did not file a grievance but informed any officials of your claim, state who you informed, \_\_\_\_\_

when and how, and their response, if any: \_\_\_\_\_

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. \_\_\_\_\_

N/A

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). \_\_\_\_\_

See page  
3(B)  
ATTACHED

VI. Previous lawsuits:

On  
these  
claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes \_\_\_\_ No \_\_\_\_

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff

Defendants

2. Court (if federal court, name the district; if state court, name the county)

3. Docket or Index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending? Yes ☐ No ☐

If NO, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?)

On  
other  
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ☐ No ☐

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff

Defendants

2. Court (if federal court, name the district; if state court, name the county)

3. Docket or Index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending? Yes ☐ No ☐

If NO, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 27 day of March, 2017.

Signature of Plaintiff

M. Smith - Baker

Inmate Number

16A4081

Institution Address

Fishkill Correctional Facility  
271 Mattegawan Road  
P.O. Box 1245  
Beacon, NY 12508

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 27 day of March, 2017, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

M. Smith - Baker



STATE OF Facts CONTINUED...

3(A) OF 3

AND WAS TOLD THAT ONE would be provided when claimant cooperated with them with promises made of NO Prosecution of any charges. Michael Smith-Baker was cooperating with police officers request to come this precinct simply for questioning. At NO time did claimant resist arrest, Disobey, the Arresting officers AND He was never charged with such crimes.

Claimant Michael Smith-Baker was denied his Due Process Rights. Said occurrences AND inquiries were sustained by Michael Smith-Baker due to the misconduct of the city of New York. In Fail Adequately to supervise, instruct said Arresting officer AS to the proper practices AND procedures in their duty. Upon information and belief the city of New York is identified as Police officers Antonio Germa #4066 and Federico Trizarray #4233 who physically Attacked claimant with Phone Books over the head AND body as well as excessive ~~rest~~ restraints the Arms, Shoulders, AND legs. Claimant is 'dam' emotional AND is taking medication to battle Anxiety AND depression all due to this occurrence.



## Injuries Sustained By Claimant 3(B)

Michael Smith Baker Sustained Severe, Emotional AND Permanent Psychological Injuries. The Full extent of which ~~the~~ is claimed for (\$2,000,000) Two million Dollars including but not limited to Anxiety, emotional distress AND upsets, Flashbacks AND mental Anguish as well as the physical injuries acquired. During Claimant's time in custody he was repeatedly caused to feel very helpless, Disgraced, intimidated, harassed, shamed, and ridiculed.

He was malnourished AND forced into unsanitary conditions. The claimant suffered battery, assault, AND defamation of character AND Attorney fees. Said claims is for Personal Injuries including loss of quality AND all other Damages to which the claimant Michael Smith Baker is entitled by case law AND statute.

As a result of the arrest, currently the claimant is serving a sentence of 7 years conditionally

Respectfully Submitted,  
M. Smith Baker